

AMENDED IN ASSEMBLY APRIL 21, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1065**

**Introduced by Assembly Member Goldsmith**  
(Coauthor: Senator Solis)

February 27, 1997

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An act to amend ~~Section~~ *Sections 11167.5 and 11170* of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1065, as amended, Goldsmith. Child abuse reports: dependent children.

Existing law requires the Department of Justice to maintain an index of all reports of child abuse, and requires the department to notify a child protective agency that submits a report of known or suspected child abuse of any information maintained in the index that is relevant to that report of abuse. *Under existing law, the reports of child abuse and the information contained in them are confidential, and unauthorized disclosure is a misdemeanor.*

*This bill would expand the list of agencies and persons to whom reports of suspected child abuse and information contained in them may be disclosed. This bill would include in that list child protective agencies responsible for making emergency placements and persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index, pursuant to a request by a child protective agency responsible for making emergency placements.*

This bill would *also* require the department to make available to any child protective agency responsible for placing dependent children *or making emergency placement*, upon request, relevant information concerning child abuse reports contained in the index, ~~when the information is requested for the purpose of ensuring that the placement of the child is in the best interests of the child.~~ This bill would also require that upon receipt of this information, the child protective agency shall provide written notice to the person identified by the department, by notifying that person of the fact that he or she is in the index. By imposing new duties on child protective agencies and expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11167.5 of the Penal Code is  
 2 amended to read:  
 3 11167.5. (a) The reports required by Sections 11166  
 4 and 11166.2 shall be confidential and may be disclosed  
 5 only as provided in subdivision (b). Any violation of the  
 6 confidentiality provided by this article shall be a

1 misdemeanor punishable by up to six months in jail or by  
2 a fine of five hundred dollars (\$500) or by both.

3 (b) Reports of suspected child abuse and information  
4 contained therein may be disclosed only to the following:

5 (1) Persons or agencies to whom disclosure of the  
6 identity of the reporting party is permitted under Section  
7 11167.

8 (2) Persons or agencies to whom disclosure of  
9 information is permitted under subdivision (b) of Section  
10 11170.

11 (3) Persons or agencies with whom investigations of  
12 child abuse are coordinated under the regulations  
13 promulgated under Section 11174.

14 (4) Multidisciplinary personnel teams as defined in  
15 subdivision (d) of Section 18951 of the Welfare and  
16 Institutions Code.

17 (5) Persons or agencies responsible for the licensing of  
18 facilities which care for children, as specified in Section  
19 11165.7.

20 (6) The State Department of Social Services or any  
21 county licensing agency which has contracted with the  
22 state, as specified in paragraph (3) of subdivision (b) of  
23 Section 11170, when an individual has applied for a  
24 community care license or child day care license, or for  
25 employment in an out-of-home care facility, or when a  
26 complaint alleges child abuse by an operator or employee  
27 of an out-of-home care facility.

28 (7) Hospital scan teams. As used in this paragraph,  
29 “hospital scan team” means a team of three or more  
30 persons established by a hospital, or two or more hospitals  
31 in the same county, consisting of health care professionals  
32 and representatives of law enforcement and child  
33 protective services, the members of which are engaged  
34 in the identification of child abuse. The disclosure  
35 authorized by this section includes disclosure among  
36 hospital scan teams located in the same county.

37 (8) Coroners and medical examiners when  
38 conducting a postmortem examination of a child.

39 (9) The Board of Prison Terms may subpoena reports  
40 that (A) are not unfounded, pursuant to Section 11165.12,

1 and (B) concern only the current incidents upon which  
2 parole revocation proceedings are pending against a  
3 parolee charged with child abuse. The reports and  
4 information shall be confidential pursuant to subdivision  
5 (d) of Section 11167.

6 *(10) Personnel from a child protective agency*  
7 *responsible for making an emergency placement of a*  
8 *child pursuant to Section 281.5 or 305 of the Welfare and*  
9 *Institutions Code.*

10 *(11) Persons who have been identified by the*  
11 *Department of Justice as listed on the Child Abuse*  
12 *Central Index pursuant to subdivision (c) of Section*  
13 *11170. Nothing in this paragraph shall preclude a*  
14 *submitting agency prior to disclosure from redacting the*  
15 *name, address, and telephone number of a witness,*  
16 *person who reports under this article, or victim in order*  
17 *to maintain confidentiality as required by law.*

18 (c) Authorized persons within county health  
19 departments shall be permitted to receive copies of any  
20 reports made by health practitioners, as defined in  
21 Section 11165.8, pursuant to Section 11165.13, and copies  
22 of assessments completed pursuant to Sections 10900 and  
23 10901 of the Health and Safety Code, to the extent  
24 permitted by federal law. Any information received  
25 pursuant to this subdivision is protected by subdivision  
26 (e).

27 (d) Nothing in this section shall be interpreted to  
28 require the Department of Justice to disclose information  
29 contained in records maintained under Section 11169 or  
30 under the regulations promulgated pursuant to Section  
31 11174, except as otherwise provided in this article.

32 (e) This section shall not be interpreted to allow  
33 disclosure of any reports or records relevant to the reports  
34 of child abuse if the disclosure would be prohibited by any  
35 other provisions of state or federal law applicable to the  
36 reports or records relevant to the reports of child abuse.

37 SEC. 2. Section 11170 of the Penal Code is amended  
38 to read:

39 11170. (a) The Department of Justice shall maintain  
40 an index of all reports of child abuse submitted pursuant

1 to Section 11169. The index shall be continually updated  
2 by the department and shall not contain any reports that  
3 are determined to be unfounded. The department may  
4 adopt rules governing recordkeeping and reporting  
5 pursuant to this article.

6 (b) (1) The Department of Justice shall immediately  
7 notify a child protective agency which submits a report  
8 pursuant to Section 11169, or a district attorney who  
9 requests notification, of any information maintained  
10 pursuant to subdivision (a) which is relevant to the  
11 known or suspected instance of child abuse reported by  
12 the agency. A child protective agency shall make that  
13 information available to the reporting medical  
14 practitioner, child custodian, guardian ad litem  
15 appointed under Section 326, or counsel appointed under  
16 Section 317 or 318 of the Welfare and Institutions Code,  
17 or the appropriate licensing agency, if he or she is treating  
18 or investigating a case of known or suspected child abuse.

19 (2) When a report is made pursuant to subdivision (a)  
20 or (c) of Section 11166, the investigating agency, upon  
21 completion of the investigation or after there has been a  
22 final disposition in the matter, shall inform the person  
23 required to report of the results of the investigation and  
24 of any action the agency is taking with regard to the child  
25 or family.

26 (3) The department shall make available to the State  
27 Department of Social Services or to any county licensing  
28 agency which has contracted with the state for the  
29 performance of licensing duties any information received  
30 subsequent to January 1, 1981, pursuant to this section  
31 concerning any person who is an applicant for licensure  
32 or any adult who resides or is employed in the home of an  
33 applicant for licensure or who is an applicant for  
34 employment in a position having supervisory or  
35 disciplinary power over a child or children, or who will  
36 provide 24-hour care for a child or children in a  
37 residential home or facility, pursuant to Section 1522.1 or  
38 1596.877 of the Health and Safety Code, or Section 8714,  
39 8802, 8912, or 9000 of the Family Code. If the department  
40 has information that has been received subsequent to

1 January 1, 1981, concerning such a person, it also shall  
2 make available to the State Department of Social Services  
3 or to the county licensing agency any other information  
4 maintained pursuant to subdivision (a).

5 (4) Persons or agencies, as specified in subdivision (b),  
6 if investigating a case of known or suspected child abuse,  
7 or the State Department of Social Services or any county  
8 licensing agency pursuant to paragraph (3), to whom  
9 disclosure of any information maintained pursuant to  
10 subdivision (a) is authorized, are responsible for  
11 obtaining the original investigative report from the  
12 reporting agency, and for drawing independent  
13 conclusions regarding the quality of the evidence  
14 disclosed, and its sufficiency for making decisions  
15 regarding investigation, prosecution, or licensing.

16 (5) Effective January 1, 1993, whenever information  
17 contained in the Department of Justice files is furnished  
18 as the result of an application for employment or licensing  
19 pursuant to paragraph (3), the Department of Justice  
20 may charge the person or entity making the request a fee.  
21 The fee shall not exceed the reasonable costs to the  
22 department of providing the information. The only  
23 increase shall be at a rate not to exceed the legislatively  
24 approved cost-of-living adjustment for the department.  
25 In no case shall the fee exceed fifteen dollars (\$15).

26 All moneys received by the department pursuant to  
27 this paragraph shall be deposited in a special account in  
28 the General Fund which is hereby created and named the  
29 Department of Justice Sexual Habitual Offender Fund.  
30 The funds shall be available, upon appropriation by the  
31 Legislature, for expenditure by the department to offset  
32 the costs incurred pursuant to Chapter 9.5 (commencing  
33 with Section 13885) and Chapter 10 (commencing with  
34 Section 13890) of Title 6 of Part 4, and Section 290.2, and  
35 for maintenance and improvements to the statewide  
36 Sexual Habitual Offender Program and the DNA  
37 offender identification file (CAL-DNA) authorized by  
38 Chapter 9.5 (commencing with Section 13885) of Title 6  
39 of Part 4 and Section 290.2.

1 (c) The Department of Justice shall make available to  
 2 any child protective agency responsible for placing  
 3 ~~dependent children pursuant to Article 10 (commencing~~  
 4 ~~with Section 360) of Chapter 2 of Part 1 of Division 2 of~~  
 5 *children pursuant to Article 7 (commencing with Section*  
 6 *305) of Chapter 2 of Part 1 of Division 2 of the Welfare and*  
 7 *Institutions Code, upon request, relevant information*  
 8 *concerning child abuse reports contained in the index,*  
 9 ~~when the information is requested for the purpose of~~  
 10 ~~ensuring that the placement of the child is in the best~~  
 11 ~~interests of the child. when making an emergency~~  
 12 *placement with a responsible relative pursuant to*  
 13 *Sections 281.5 and 305 of the Welfare and Institutions*  
 14 *Code. Upon receipt of relevant information concerning*  
 15 *child abuse reports contained in the index from the*  
 16 *Department of Justice pursuant to this subdivision, the*  
 17 *child protective agency shall also notify in writing the*  
 18 *person listed in the Child Abuse Central Index that he or*  
 19 *she is in the index. The notification shall include the*  
 20 *location of the original investigative report and the*  
 21 *submitting agency.*

22 *SEC. 3. No reimbursement is required by this act*  
 23 *pursuant to Section 6 of Article XIII B of the California*  
 24 *Constitution for certain costs that may be incurred by a*  
 25 *local agency or school district because in that regard this*  
 26 *act creates a new crime or infraction, eliminates a crime*  
 27 *or infraction, or changes the penalty for a crime or*  
 28 *infraction, within the meaning of Section 17556 of the*  
 29 *Government Code, or changes the definition of a crime*  
 30 *within the meaning of Section 6 of Article XIII B of the*  
 31 *California Constitution.*

32 *However, notwithstanding Section 17610 of the*  
 33 *Government Code, if the Commission on State Mandates*  
 34 *determines that this act contains other costs mandated by*  
 35 *the state, reimbursement to local agencies and school*  
 36 *districts for those costs shall be made pursuant to Part 7*  
 37 *(commencing with Section 17500) of Division 4 of Title*  
 38 *2 of the Government Code. If the statewide cost of the*  
 39 *claim for reimbursement does not exceed one million*

1 dollars (\$1,000,000), reimbursement shall be made from  
2 the State Mandates Claims Fund.  
3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

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